

Remarks

Claims 1, 5-12, and 17-23 are pending in the above-identified patent application. Claims 11-12 are withdrawn from consideration. With this Response, claims 1 and 5-12 are canceled, and claims 17 and 20 are amended. Upon entry of the current amendment, claims 17-23 are pending.

Applicant submits that the amendment to claims 17 and 20 are fully supported by the application as originally filed and does not present new matter. The amendment to claim 17 is discussed below. Claim 20 is amended to correct a redundancy with base claim 17. Support for the amendment to claim 20 can be found in the specification at, e.g., page 7, lines 23-29, and Figure 11.

Reconsideration and further examination of the application are respectfully requested.

Telephonic Interviews

Applicant gratefully acknowledges the telephonic interviews between Examiner Fidei and Applicant's undersigned representative, Paul John Parins, on July 28, 2006; August 2, 2006; and November 1, 2006.

Interviews on July 28th and August 2nd

Clarifying amendments to claim 17 were discussed so as to make claims 17-23 allowable. In brief, the clarifying amendments would include changing the preamble to a method of opening a container instead of a method of sealing a container, and conforming the steps to a method of opening a container.

Canceling article claims 1 and 5-12 was also discussed.

Interview on November 1st

After receiving the Office Action mailed on October 2, 2006, Mr. Parins contacted Examiner Fidei to inquire about the purpose of the Office Action. In response, Examiner Fidei brought U.S. Pat. No. 6,385,878 (Key) to Applicant's attention.

Amendment of Independent Claim 17

As discussed with the Examiner in the Interviews on July 28th and August 2nd (mentioned above), claim 17 is amended from a method of sealing a container to a method of opening a container. Accordingly, the steps of claim 17 are amended to conform to a method of opening a container. Support for these amendments can be found in the specification at, e.g., page 2, line 25 to page 3, line 18.

In addition, claim 17 is amended to feature a nestable container by reciting that the side wall tapers from top to bottom “such that the container can nest with one or more like containers when lids are not covering the containers.” Support for this amendment can be found in the specification at, e.g., page 5, lines 19-29, especially lines 23 and 28, and Figure 1.

In brief, claim 17 as amended features the unique ability to separate shrinkwrap from the lid and rim of a nestable container yet have shrinkwrap be held in place on the sidewall so as to trap a non-adhesive label between the shrinkwrap and side wall even after the lid is removed. Applicant discovered that having the shrinkwrap be maintained against the side wall of a nestable container can be achieved by providing an annular surface discontinuity disposed on the side wall intermediate the rim and bottom of the nestable container. Having the shrinkwrap formed to, covering, and conforming to the shape of surface discontinuity according to claim 17 holds the shrinkwrap in place on the sidewall when the lid is removed, thereby trapping the non-adhesive label between the shrinkwrap and the side wall after the lid is removed. Advantageously, adhesives are unnecessary.

The Key Reference (U.S. Pat. No. 6,385,878)

The Key Reference does not teach, motivate, or suggest how to hold shrinkwrap against the side wall of a nestable container after the shrinkwrap has been removed from the lid of the container and the lid separated from the rim, especially in a manner to trap a non-adhesive label between the shrinkwrap and the side wall.

It is true that Key illustrates containers having a portion of their side wall that tapers, but such containers are necked in near the top of the container such that the containers are not nestable (See Key at Figures 1-8 and 11). For example, in Figure 1 Key shows container 130 having a “necked in” portion near the top where cap 132 is and a body 134 that tapers downwardly from shoulder 138 (see Key at Figure 1 and col. 4, lines 45-51). However,

container 130 does not have a side wall that tapers from the top to the bottom of container 130 such that container 130 can nest with one or more like containers when lids are not covering the containers. That is, container 130 is not nestable.

Applicant also notes that it is true that Key illustrates certain other non-nestable containers such as those in Figures 9 and 10 that do not have a tapered portion such as body 134 of container 130 in Figure 1 (see Key at Figures 9 and 10 and col. 7, line 48 to col. 8, line 10, especially col. 7, lines 52 to 53). In describing Figure 9, Key explains that because container 900 does not have a tapered body, container 900 has surface contours 930a and 930b to prevent upward displacement of label portion 918 after the tamper-evident portion is removed (see Key at col. 7, lines 52-56). That is, Key fails to use surface contours such as 930a and 930b when dealing with tapered container bodies!

To be clear, the non-nestable containers in the Key reference that do have a tapered body portion (e.g., in Figure 1) do not have surface contours such as 930a and 930b, but the non-nestable containers in the Key reference that do not have tapered body portions (e.g., in Figure 9) do include surface contours such as 930a and 930b to keep the label portion 918 in place. This contrast between the containers in the Key reference that have and that do not have a tapered body portion highlights that the Key reference fails to teach, motivate, or suggest that its surface contours can be disposed on a tapered side wall to maintain shrinkwrap in place against the side wall.

Moreover, by not including surface contours such as 930a and 930b on his tapered side walls Key utterly fails to provide any strategy for retaining shrinkwrap against a side wall of a nestable container after the lid of the nestable container is removed.

The failure of Key to provide any relevant teaching, motivation, or suggestion in the presently claimed context of a nestable container evidences the patentability of Applicant's claims and highlights the significant inventive step that Applicant has taken beyond the Key reference.

In addition, the Key reference does not teach that a non-adhesive label can be trapped between shrinkwrap and a container side wall. The Key reference repeatedly explains that an inner label is affixed to the container (see Key at, e.g., col. 2, lines 28-40, especially lines 33 and 34; col. 4, lines 58-60; col. 6, lines 37-40; and col. 8, lines 16-18).

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance, which allowance is earnestly solicited.

In the event that a phone conference between the Examiner and the Applicant's undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the undersigned.

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By:

Respectfully Submitted,



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